

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

TESSIE ELLIS

CIVIL ACTION NO: 1:20-cv-01318

VERSUS

JUDGE:

WALMART INC.

MAGISTRATE:

NOTICE OF REMOVAL AND JURY DEMAND

TO: Greta Roaix– Deputy-in-Charge
United States District Court
Western District of Louisiana
Clerk of Court
515 Murray St., Suite 105
Alexandria, LA 71301

Ms. Jeanne K. Demarest
Alvendia, Kelly & Demarest, LLC
909 Poydras Street, Suite 1625
New Orleans, LA 70112

NOW INTO COURT, through undersigned counsel, comes WALMART INC. (sometimes hereinafter referred to as “Walmart”) defendant in the above entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above entitled cause to this Honorable Court under the provisions of 28 U.S.C. § 1441, *et seq.*, and reserving all rights, respectfully shows as follows:

1.

This suit was filed by plaintiff in the 9th Judicial District Court, Civil Action No. 267,728 “F”, Rapides Parish, Louisiana, on March 16, 2020. (Ex. A).

2.

Defendant filed an answer to the petition on April 14, 2020 (Ex. B).

3.

Plaintiff is a citizen of Louisiana. (Ex. A).

4.

Defendant Walmart Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas. Defendant is a publicly held company.

5.

In her Petition, plaintiff alleges that she suffered “personal, psychological and emotional injuries” when she slipped and fell due to an unknown substance on the floor at the Walmart Store located on North Mall Drive in Alexandria, Louisiana. (Ex. A, ¶¶ IV, V, VI).

6.

Consistent with Louisiana law, in her Petition plaintiff does not allege any specific monetary amount of the value of her claims.

7.

On September 11, 2020, defendant received Plaintiff’s Supplemental Responses to Defendant’s Interrogatories and Requests for Production of Documents. (Ex. C).

8.

In response to Walmart’s Request for Admission No. 1, plaintiff asserts, for the first time, that she is seeking damages in this lawsuit in excess of \$75,000.00, exclusive of interest and costs. Id.

9.

Based on plaintiff's Response to Request for Admission No. 1, Walmart alleges the amount in controversy in this suit exceeds \$75,000.00, exclusive of interest and costs.

10.

Pursuant to 28 USC § 1446(b), this Notice of Removal is timely because plaintiff's Response to Request for Admission No. 1, received by Wal-Mart on September 11, 2020, constitutes an "other paper from which it was first ascertained that the case is one which is or has become removable," and the Notice of Removal is filed within one year after the commencement of the action.

11.

The Court has jurisdiction of this cause of action under 28 USC § 1332.

12.

The proper court for removal is the United States District Court for the Western District of Louisiana.

13.

Defendant requests a trial by jury as to all issues triable by a jury.

14.

Defendant further shows unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon all adverse parties and a copy filed with the Clerk of the 9th Judicial District Court, Rapides Parish, Louisiana, all in accordance with 28 USC § 1446(d).

15.

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, undersigned counsel certifies that he has read the foregoing Notice of Removal, that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the costs of litigation.

WHEREFORE, Wal-Mart Louisiana, LLC and Walmart Inc. remove the above-entitled case from the state court to this Court.

Respectfully submitted,

CHADWICK & ODOM, LLC

BY: _____

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by placing same in the U.S. Mail, postage prepaid and properly addressed, or by fax, or by email, this 8 day of October 2020.

CHADWICK & ODOM, LLC

Gregory B. Odom, II